IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FOURTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 15667 of 2004

Between:

1 N.Ramulu, s/o Yadagiri,
c/o K.Krishnaiah, Secretary, Budhanagar Colony, Peerzadiguda Gram Panchayat,
Uppal, Ranga Reddy District.
2 G.Sathaiah, s/o Ramaiah,
c/o K.krishnaiah, Secretary, Budhanagar Colony,
Perzadiguda Gram Panchayat, Uppal, Ranga Reddy District.

..... PETITIONERS

AND

1 The Government of Andhra Pradesh rep., by its Secretary to Government,
Cooperative Department, Secretariat, Hyderabad.
2 The Commissioner for Cooperation & Registrar of Cooperative Societies,
Govt., of Andhra Pradesh,Hyderabad.
3 Divisional Cooperative Officer, Cooperative Department,
Government of A.P., Bhongir, Nalgonda District.
4 Primary Agricultural Co.operative Society Ltd., Ghousenagar, Hqrs:Chandupatla,
Bhongir Mandal, Nalgonda District, rep., by its Chairman/Person-in-charge Committee

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order direction or writ particularly one in the nature of writ of mandamus or any other appropriate writ (i) declaring the G.O.Ms.No.94, Agriculture & Cooperation (Coop.VI) Department dated 28/2/2004 is not applicable to the 4th respondent-society in as much as it is funded by the Public Sector Bank; (ii) declare the proceedings Rc.No.566/2002-C dated 24-6-2004 of the Divisional Cooperative Officer, Bhongir is illegal, arbitrary and void; (iii) declare the resolution of the 4th respondent-society dated 24-7-2004 for implementation of the G.O.Ms.No.94, Agriculture & Cooperation (Co.op.VI) Department dated 28/2/2004 is illegal and

void; (iv) declare that the proceedings Rc.No.1/2004 dated 13-8-2004 proposing to terminate the services of the petitioners as illegal and arbitrary; (v) and consequently direct the 4th respondent-society to continue the petitioner with all consequential benefits (vi() and pass such other order or orders

Counsel for the Petitioners:MR.G.VIDYASAGAR

Counsel for the Respondents: GP FOR COOPERATION

The Court made the following :

ORDER:

The Petitioners are the employees of the 4th respondent-Primary Agricultural Cooperative Society. The services of the petitioners were terminated through orders dated 13.8.2004. Hence, the writ petition.

Learned counsel for the petitioners submits that the total expenditure incurred on the employees is in terms of Section 116 (c) (1) of the A.P. Cooperative Societies Act, 1964 (for short 'the Act'). The statement showing the eligibility of establishment charges for 2004-2005 basing on the actuals as per FAR for 2003-2004 shows that 30% gross profit is Rs.11,68,781.49 ps and 2% of the working capital is Rs.5,72,195.82 ps. It is stated that as long as the eligible expenditure on pay and allowances of staff i.e. Rs.5,72,195.82 ps is in conformity with Section 116 (c)(1) of the Act, the authorities cannot interdict the Primary Agricultural Cooperative Society to remove any of its employees. It is further stated that the Society has also fixed the

staffing pattern, pay scales and other allowances under the relevant rules. Since most of the Societies are incurring heavy losses and, therefore, with a view to remove the anomaly of implementing Section 116 (c)(1) of the Act, the Government issued G.O.Ms.No.94 dated 28.2.2004 and the said G.O. has no application to the Societies which are functioning in accordance with Section 116 (c)(1) of the Act, but those G.O.s have been issued in respect of the Societies whose establishment charges are contrary to Section 116 (c)(1) of the Act. The 3rd respondent-Divisional Cooperative Officer issued proceedings dated 24.6.2004 directing the 4th respondent-Society not to make any pay and allowances contrary to G.O.Ms.No.94. Consequently, the 4th respondent-Society passed the impugned order dated 13.8.2004 pursuant to the said directions of the 3rd respondent for removing the services of the petitioners.

Having regard to the fact that the action of the respondents 3 and 4 in removing the services of the petitioner is illegal and without any justification and the respondents cannot take any action against the employee of the Society as long as their appoint and pay and allowances are in conformity with Section 116 (c)(1) of the Act, the said proceedings of the 4th respondent dated 13.8.2004 are set aside directing the respondents to take action in accordance with Section 116 (c)(1) of the Act and pass appropriate orders.

The writ petition is disposed of. No costs.

14.9.2004

cvm

To,

1 The Secretary to Government,
Cooperative Department, Secretariat, Hyderabad.
2 The Commissioner for Cooperation & Registrar of Cooperative Societies,
Govt., of Andhra Pradesh,Hyderabad.
3 Divisional Cooperative Officer, Cooperative Department,
Government of A.P., Bhongir, Nalgonda District.
4 Primary Agricultural Co.operative Society Ltd., Ghousenagar, Hqrs:Chandupatla,
Bhongir Mandal, Nalgonda District, rep., by its Chairman/Person-in-charge
Committee

5 2 CCs to G.P. for Cooperation, High Court of A.P., Hyd. (OUT).

6 2 CD copies.